



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 24, 1998

Ms. Monica L. Strickland  
Assistant City Attorney  
The City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR98-0785

Dear Ms. Strickland:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113667.

The City of Midland (the "city") received a request for a specific incident report pertaining to the requestor. In response to the request, you submitted to this office for review the information which you assert is responsive. You claim that certain highlighted information is protected by the informer's privilege and that the narrative in its entirety is excepted from disclosure under section 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the information at issue.

We will first address your claim that "the narrative in its entirety is exempted from disclosure, pursuant § 552.108 of the Government Code, as active, open, and pending investigation in the Midland District Attorney's office." The Seventy-fifth Legislature amended section 552.108 of the Government Code to read as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime;
- (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that the requested information concerns an active, open, and pending criminal investigation. Because you have shown that the release of the requested information would interfere with the detection, investigation or prosecution of crime, we conclude that most of the submitted information may be withheld under section 552.108(a)(1).<sup>1</sup> *See* Open Records Decision No. 216 (1978).

However, we note that certain basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. *See* Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Therefore, except for basic information normally found on the front page of an offense report, including a detailed description of the offense, you may withhold the remaining information from disclosure pursuant to section 552.108. You may choose, however, to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.

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<sup>1</sup>Although you seek to withhold the highlighted information under section 552.101, we note that in Open Records Decision No. 127 (1976), this office concluded that "identification and description of witnesses" is information which is protected by section 552.108 of the Government Code. As we resolve your request under section 552.108, we need not address your claimed exception under section 552.101, in conjunction with the informer's privilege.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Sam Haddad". The signature is written in dark ink and is positioned above the printed name.

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/rho

Ref: ID# 113667

Enclosures: Submitted documents

cc: Ms. Lisa Darlene Collins  
3307 South C. R. 1224  
Midland, Texas 79706  
(w/o enclosures)